

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SPRINT SPECTRUM L.P.,

Plaintiff,

v.

CITY OF GLOUCESTER, CITY COUNCIL OF
THE CITY OF GLOUCESTER, and
VITO J. CALOMO, JOSEPH A. CIOLINO,
JOHN GUS FOOTE, DEAN W. HARRISON,
ABDULLAH A. KHAMBATY,
SEFATIA A. ROMEO,
EDWARD ST. PETER, JR.,
ALPHONSE J. SWELKA and
JEFFREY T. WORTHINGTON, in their
capacities as members of the City Council of the
City of Gloucester,

Defendants.

Civil Action No. 04-11865-JLT

AGREEMENT FOR JUDGMENT

The undersigned parties hereby stipulate and agree that:

1. Judgment shall enter in favor of plaintiff Sprint Spectrum L.P. on Count I of the Complaint.
2. The Defendants shall forthwith grant a Special Council Permit under the City of Gloucester Zoning Ordinance (the "Zoning Ordinance") to plaintiff Sprint Spectrum L.P. ("Sprint Spectrum") for the siting and construction of the personal wireless service facility referenced in the Complaint (the "Facility").
3. The permit referenced in paragraph 2, above, shall be issued and shall contain the following conditions, which shall be set forth in the Special Council Permit to be issued by the City of Gloucester City Council in the form attached hereto as Exhibit A:

A. Sprint Spectrum shall within 30 days of the commencement of construction of the Facility, post a bond (in an amount not to exceed \$25,000), intended to secure the costs of the removal of the Facility in accordance with Section 5.13.9.3 of the Zoning Ordinance regarding Abandonment or Discontinuation of Use.

B. Within thirty (30) days following the City of Gloucester's issuance of a building permit for the Facility, Sprint Spectrum shall provide to the Gloucester Fire Department a check in the amount of \$5,000 (five thousand dollars) in accordance with Section 5.13.12 of the Zoning Ordinance regarding Provision For Fire Safety and Rescue. Such check is intended as a contribution toward improving the adequacy of the City of Gloucester's response in the event of hazardous or emergency events on high, free-standing structures as more particularly set forth in Section 5.13.12.1 of the Zoning Ordinance.

4. This action is otherwise dismissed with prejudice, and with the parties to each bear their own costs and fees.

CITY OF GLOUCESTER, *et al.*,

SPRINT SPECTRUM L.P.

By their attorneys,

By its attorneys,

/s/ Cynthia Dunn
Cynthia Dunn (BBO #645774)
Assistant General Counsel
Law Department, City Hall
9 Dale Avenue
Gloucester, MA 01930
(978) 281-9727

/s/ Wayne F. Dennison
Wayne F. Dennison (BBO #558879)
BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Boston, MA 02111
617-856-8200

Dated: June 10, 2005

ENTERED AND ADJUDGED:

Joseph L. Tauro, United States District Judge

EXHIBIT A

In Re:

)	
Application of Sprint Spectrum L.P. c/o Terra)	
Search LLC, for a Special Council Permit)	DECISION OF THE CITY
Pursuant to City of Gloucester Zoning Ordinance)	COUNCIL OF THE CITY OF
Section 5.13)	GLOUCESTER
)	

The City Council of the City of Gloucester, Massachusetts, constituting the Special Permit granting authority under the laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Gloucester, hereby adopts the following decision with regard to the application and subsequent litigation of Sprint Spectrum L.P. c/o Terra Search LLC, for a Special Council Permit pursuant to Section 5.13 of the City of Gloucester Zoning Ordinance (the "Zoning Ordinance") to construct a personal wireless service facility at 50 New Way Lane, Gloucester.

1. The applicant for the Special Council Permit is Sprint Spectrum L.P. c/o Terra Search LLC ("Sprint Spectrum"). The owners of the property are Richard Barletta and Marcia Martin. The property is located at 50 New Way Lane, Gloucester and is shown on Assessor's Map 221, Lot 46. The zoning district is Low Density Residential (R-2A). The applicant seeks a Special Council Permit as required by Section 5.13 of the Zoning Ordinance to construct a personal wireless service facility at 50 New Way Lane, Gloucester.

2. The application was filed with the City Clerk on April 8, 2004. The application is incorporated herein by reference.

3. The City Council referred the application to its Planning and Development Standing Committee. The Committee hearing was properly noticed and a hearing was held on May 19, 2004.

The Planning and Development Committee continued the meeting to June 16, 2004.

On motion, the Planning and Development Committee voted One (1) in favor, Two (2) opposed, to recommend to the full City Council to approve the application of Sprint Spectrum to construct a personal wireless facility at 50 New Way Lane.

4. Following proper notice and advertisement, the City Council held a public hearing on June 22, 2004.

Upon roll call the City Council voted Eight (8) to One (1) to deny Sprint Spectrum's application for a personal wireless facility at 50 New Way Lane.

5. Sprint Spectrum, filed a civil action, Civil Action No. 04-11865-JLT, against the City of Gloucester in the United States District Court for the District of Massachusetts seeking damages in lost revenue and attorney's fees.
6. The City Council voted on April 26, 2005 via executive session to settle Civil Action No. 04-11865-JLT, thereby granting the Special Council Permit to Sprint Spectrum to construct the personal wireless facility referenced in said Civil Action (the "Facility") at 50 New Way Lane in accordance with Section 5.13 of the Zoning Ordinance. The following conditions shall apply:
 - 1) Sprint Spectrum shall within 30 days of the commencement of construction of the Facility, post a bond in the amount of \$25,000 (Twenty five thousand dollars) to secure the costs of removal of the Facility in accordance with Section 5.13.9.3 of the Zoning Ordinance.
 - 2) Within 30 days following the City of Gloucester's issuance of a building permit for the Facility, Sprint Spectrum shall provide the Gloucester Fire Department a check in the amount of \$5,000 (Five thousand dollars) in accordance with Section 5.13.12 of the Zoning Ordinance. Such check is intended as a contribution toward improving the adequacy of the City of Gloucester's response in the event of hazardous or emergency events on high, free standing structures as more particularly set forth in Section 5.13.12.1 of the Zoning Ordinance.
 - 3) This permit shall not take effect until notice is filed with the Registry of Deeds for Essex County by the recording of a copy of the decision. The fee for such notice shall be paid by the applicant.

Voting in Favor of Settlement

Alphonse J. Swekla, President

Jeffrey T. Worthley

Dean W. Harrison

Abdullah A. Khambaty

Sefatia A. Romeo

Joseph A. Ciolino

Vito J. Calomo

D. Edward St. Peter, Jr.

Dean W. Harrison